

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-107-01072R

Parcel No. 8947-36-909-001

Gary & Helen Kelley,

Appellants,

v.

Sioux City Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on March 7, 2016. Gary and Helen Kelley were self-represented. Attorney Jack Faith represented the Sioux City Board of Review.

The Kelleys are the owners of a residential property located at 1110 Meadow View Court, Unit #1, Sioux City, Iowa. The subject is a one-story, townhouse condominium, built in 2007, with 1110 square feet of living area; an open porch; a patio; and a 440 square-foot attached garage. The dwelling is listed in normal condition with average quality construction (Grade 4+05). The site is 0.178-acres.

The property's January 1, 2015, assessment was \$155,400. The property has an urban revitalization exemption of \$38,400, which ends in December 2019. The Kelleys' protest to the Board of Review claimed the assessment was not equitable as compared with assessments of other like property; that the property was assessed for more than the value authorized by law; and that there is an error in the assessment under Iowa Code sections 441.37(1)(a)(1)(a, b & d). The error claim essentially restates their equity and market value claims. The Board of Review denied the protest. The Kelleys then appealed to PAAB. They assert the property's correct value is \$130,000.

Findings of Fact

Gary Kelley testified that he purchased the subject in July 2013 for \$149,000, or \$134 per-square-foot. (Exs 1A & 1C). Kelley noted his assessed value jumped approximately 26% in one year, and he does not believe the increase is justified. He testified that no changes have been made to the property.

The Kellys' unit is located in the Deer Hollow Pointe Condo subdivision. Residency in the complex is limited to persons over the age of fifty-five. The complex has forty-eight condominiums, all but one are identical in style and size. (Ex. 1A). The units are organized into two categories: 1) those located on the north end of the development that are built up on a cul-de-sac featuring a greenspace and gazebo and where the Kelleys' condominium is located and, 2) those located on the south side of the development. For ease of identification, we will differentiate between the properties as north condominiums and south condominiums. There are twelve units on the north side and thirty-six units on the south side. All units have the same construction grade, offer similar exterior appeal, were built during the same period, and all but one are the same size. For the purposes of our analysis of Kelley's equity and overassessment claims, we find that the majority of the condominium units in the complex are similarly situated and comparable properties. We do not include the dissimilar unit in the following analysis.

Notes on the property record card state that the subject complex was reviewed for the 2015 assessment. During the review, there was an attempt to find a pattern as to why north condominiums were selling for more than south condominiums; despite the fact, the units are essentially identical. There is no substantive conclusion offered on the property record card to explain the differences. Despite failing to identify an explanation or support for the disparities, north condominiums were assessed at \$155,400 while the south condominiums were assessed at \$121,000.

Excluding the dissimilar unit, eighteen sales occurred in the subject's development between 2013 and 2015. (Ex 1A). These properties were built between 2004 and 2014. With the exception of age, there are no discernable differences between the improvements. However, the north condominiums sold between \$146,000

and \$149,950, whereas the south condominiums sold for between \$110,000 and \$128,500. The following chart summarizes the 2014 sales and the most approximate sales to January 1, 2015.

	Sale Price	Sale Date	Assessment	Year Built	North/South
Subject	N/A	N/A	\$155,400	2007	North
1 - Bldg 1121, Unit 2	\$125,000	Mar-14	\$121,000	2007	South
2 - Bldg 1100, Unit 1	\$149,950	Apr-14	\$155,400	2008	North
3 - Bldg 1110, Unit 3	\$149,950	Apr-14	\$155,400	2007	North
4 - Bldg 1130, Unit 4	\$122,500	May-14	\$121,000	2006	South
5 - Bldg 1120, Unit 1	\$121,000	May-14	\$121,000	2007	South
6 - Bldg 1141, Unit 3	\$126,500	Jun-14	\$121,000	2005	South
7 - Bldg 1111, Unit 3	\$159,950	Feb-14	\$108,800	2014	North
8 - Bldg 1100, Unit 2	\$146,000	Jan-15	\$155,400	2008	North
9 - Bldg 1111, Unit 4	\$159,230	Jan-15	\$124,300	2014	North

Kelly explained that the north condominiums that sold were first time sales. He believes the south condominiums are selling for less because they are re-sales by heirs who are looking to dispose of the property. He believes that for this reason, the properties sell for significantly less. Ultimately, we have no evidence that these sales did not occur under typical motivations by both parties and we find them to be normal, arm's length transactions.

Additionally, we find no reason to exclude a sale based solely on its location in the development, because no evidence was presented to suggest that location alone reflects the differences in the sale prices.

The record indicates Sales 1 and 5 sold as part of a 1031 exchange. For this reason, we do not consider them sufficient for comparison. The remaining sales had sale prices between \$122,500 and \$159,950. Five of the sales were located in the north portion of the subject development, similar to the subject property. Because the properties are all the same size and relatively similar age, we find that direct comparison of the sales prices is reasonable. The average sale price is \$144,870 (rounded).

Kelley does not believe his property, which was built in 2007, should have the same assessed value as those built in 2014. We note the Kelleys purchased the property in July 2013, but it had not been sold or occupied since it was built in 2007. Of the sales presented, only two were built in 2014. Reviewing these sales, there does not appear to be a correlation between the age of the improvements and the sales price.

The Board of Review did not submit any evidence.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.*

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food*

Centers v. Bd. of Review of the City of Davenport, 497 N.W.2d 860, 865 (Iowa 1993). Kelly asserted that his property was not being assessed equitably with other properties in the condominium complex. We find that all of the units in the subject's complex, with one exception, are similarly situated and comparable properties. The units are of identical size, offer similar exterior appeal, are of the same construction grade, and have relatively similar effective ages.

We conclude that a uniform assessment method was not applied in the subject's complex. The property record cards in the record all indicate the Assessor's Office sought to find a pattern between the disparate sale prices in the development, despite the properties' similarity. Although the higher sales occurred amongst the north condominiums, there is no definitive support that the locational difference caused the variance in the sale prices. Nonetheless, the north condominiums, including the Kelleys, were valued at \$155,400 while the south properties were valued at \$121,000. Based on the foregoing, we find that the Kellys have shown inequity in their assessment.

The Kellys also asserted the subject property is over assessed. In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

Kelley submitted sales of other units in his development that have occurred between 2013 and 2015. Because there were ample sales of comparable properties available, we rely solely on the 2014 sales, and the January 2015 sales as the most relevant for a 2015 market value opinion. Two of the sales were the result of a 1031 exchange; for this reason, we decline to consider them. The remaining seven sales are all similar in design, style, and size to the subject property; four were built in roughly the same time-period, and two are newer construction. Five of the sales are located in the north side of the development like the subject property. There is no evidence to suggest the sales, regardless of the disparity of the prices, do not represent a fair market value. Likewise, there is no evidence to suggest that the disparity between the

sale prices from high to low is the sole result of location in the development. The average of the sale prices is \$144,870 (rounded).

In short, the sales data indicates the subject's assessment is excessive. The sales data suggests the subject's correct fair market value is approximately \$144,870.

The evidence before PAAB demonstrates that the subject property is both inequitably assessed and overassessed. Iowa Code section 441.21(1) dictates that a property's assessment must be representative of its fair market value. We are cognizant of the fact that, in this case, an equitable assessment may result in an assessment below the subject's fair market value. The Iowa Supreme Court has previously observed that "no matter how desirable equalization in tax assessment may be, this may not be used as a substitute for those factors peculiar to the property being assessed that establish its value." *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289, 291 (Iowa 1996) (citing *Valley Forge Apartments v. Bd. of Review*, 269 N.W.2d 148, 151 (Iowa 1976)). Therefore, we find the subject's assessment should be reduced to reflect its fair market value.

Order

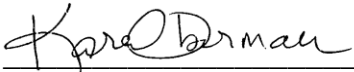
IT IS THEREFORE ORDERED that the Sioux City Board of Review's action is modified and the assessment of the subject property is set at \$144,870.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

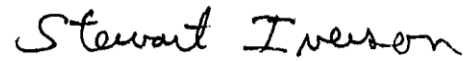
Dated this 9th day of May, 2016.



Jacqueline Rypma, Presiding Officer



Karen Oberman, Board Member



Stewart Iverson, Board Chair

Copies to:

Gary & Helen Kelley

Jack Faith